

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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<b>LAWRENCE SHEINBERG and GILES HAZEL)</b> <b>on behalf of themselves and others similarly</b> ) <b>situated</b> ) <b>Plaintiffs,</b> )  <b>v.</b> )  <b>ROBERT SORENSEN; LITETRONICS</b> ) <b>INTERNATIONAL, INC.,</b> ) <b>Defendants.</b> )	)	<b>Civil Action No. 00-6041(JLL)</b> <b>(RJH)</b>
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**DEFENDANTS' MOTION FOR CLASS DECERTIFICATION OF THE CLASS  
REGARDING PLAINTIFFS' FAIR LABOR STANDARDS ACT CLAIMS**

Defendants, Robert Sorenson and Litetronics International, Inc., by and through their undersigned counsel, hereby file their Motion for Decertification of the Class Regarding the Plaintiffs' Fair Labor Standards Act Claims, and in support of their Motion state as follows:

**ARGUMENT**

Plaintiffs' Second Cause of Action seeks recovery of damages for a class of Plaintiffs' under the Fair Labor Standards Act ("FLSA"). Specifically, Plaintiffs' have alleged violations under 29 U.S.C. § 206 of the FLSA and claim damages under 29 U.S.C. § 216.

Section 216(b) of the FLSA specifically requires representative (i.e. class) actions proceed only if each employee gives his [or her] consent in writing to become a party and such consent is filed in the court in which the action is brought.

In certifying a class for purposes of the FLSA, the courts are to engage in a two tier analysis. The first tier is to determine whether the employees are similarly situated.

Asencio et al. v. Tyson Foods, Inc., 130 F.Supp.2d 660 (E.D. Pa. 2001). The second tier is to determine whether all of the members of the representative class have opted in by consenting in writing as required by the statute. Id.

Defendants have never received the required consents. Nor, upon review of the court's file, does it appear that Plaintiffs have filed written consents with the court to establish a class under the FLSA.

### CONCLUSION

For the foregoing reasons, Defendants Robert Sorensen and Litetronics International, Inc., respectfully request this Court to decertify the FLSA class.

Respectfully submitted,

**STAHL COWEN CROWLEY LLC**

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